

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

107

01/06

TO:
City Council

2. FROM (ORIGINATING DEPARTMENT):
City Attorney

3. DATE: 10/15/08

4. SUBJECT:

CASA DE LA PLAYA GEOLOGIC HAZARD ABATEMENT DISTRICT

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)

Kimberly Kaelin, 619-533-5895

6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)

Nancy Al'Hibshi 619-533-6277

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED	
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7

8.COMplete for accounting purposes

FUND				
DEPT.				
ORGANIZATION				
OBJECT ACCOUNT				
JOB ORDER				
C.I.P. NUMBER				
AMOUNT				

9. ADDITIONAL INFORMATION / ESTIMATED COST:

No Fiscal Impact

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	
1	ORIGINATING DEPARTMENT	<i>Karen Herman</i>	12/5/08	8	DEPUTY CHIEF			
2				9	COO			
3				10	CITY ATTORNEY	<i>Wimberly Hall</i>	10-15-08	
4	LIAISON OFFICE			11	ORIGINATING DEPARTMENT	<i>Karen Herman</i>	12/5/08	
5				✓	DOCKET COORD: _____ COUNCIL LIAISON: _____			
6					COUNCIL PRESIDENT	<input type="checkbox"/> SPOB	<input checked="" type="checkbox"/> CONSENT	<input type="checkbox"/> ADOPTION
7					<i>James</i>	<input type="checkbox"/> REFER TO: _____	COUNCIL DATE: 1/6/09	

11. PREPARATION OF:

☒ RESOLUTION(S)☐ ORDINANCE(S)☐ AGREEMENT(S)

DEED(S)

Appoint the following five property owners within the Casa De La Playa Geologic Hazard Abatement District to serve as Directors of the District for the term of four years: Douglas Fettel, Dr. James Ellis, Thomas Bryan, Philip Golden Kincaid, and Steven Teixeira.

11A. STAFF RECOMMENDATIONS:

Approve the resolution.

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): 2

COMMUNITY AREA(S): Ocean Beach

ENVIRONMENTAL IMPACT: This activity is not a "project" and is therefore not subject to CEQA pursuant to State Guidelines Section 15060 (c)(3).

HOUSING IMPACT: N/A

OTHER ISSUES: N/A

EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED:
ATTENTION: City Council
ORIGINATING DEPARTMENT: City Attorney
SUBJECT: Casa De La Playa Geologic Hazard Abatement District
COUNCIL DISTRICT(S): 2
CONTACT/PHONE NUMBER: 619-533-5895

REQUESTED ACTION: Appoint five property owners within the Casa De La Playa Geologic Hazard Abatement District to serve as Directors of the District for the term of four years.

STAFF RECOMMENDATION: Approve action as requested.

EXECUTIVE SUMMARY: BACKGROUND: The Casa De La Playa Geologic Hazard Abatement District (District) was formed in September 1997; this special assessment district was formed to allow property owners to finance a seawall to protect property from eroding cliffs found to be a hazardous condition by geologists, without creating a financial obligation of the City. The District was formed to specifically address the geologic hazard of coastal bluff retreat fronting the Casa De La Playa condominium complex. The complex was in jeopardy of being severely damaged by further erosion resulting from high tides, storm surf and/or heavy winter rains.

At the time the District was formed in 1997, five property owners in the District were appointed to its Board. All property owners who were members of the Board have either passed away or moved away. Pursuant to the elections code statutes, the Board must now be appointed by City Council. This action is necessary for the Board to make decisions with respect to maintenance of the seawall.

DISCUSSION: Casa De La Playa is a multi-unit condominium complex located at the top of a coastal bluff at the west end of Pescadero Avenue in Ocean Beach. The condominium is a single structure, containing 24 living areas and garages. In response to a request from the property owners in 1997, a Geologic Hazard Abatement District (Abatement District) was formed to specifically address coastal bluff erosion/retreat. Geologists informed the Casa De La Playa property owners that if the hazardous condition which existed at the coastal bluff fronting their property was not quickly abated, then the condominium complex was in jeopardy of being severely damaged by further erosion resulting from high tides, storm surf and/or heavy winter rains.

An Abatement District is authorized to independently finance improvements through the Improvement Act of 1911 (commencing with section 5000 of the California Streets and Highways Code), the Municipal Improvement Act of 1913 (commencing with section 10000 of the California Streets and Highways Code), and the Improvement Bond Act of 1915 (commencing with section 8500 of the California Streets and Highways Code). An Abatement District may also accept financial or other assistance from any public or private source and may borrow funds from a local agency, and the state and federal governments. Here, the Casa De La Playa property owners formed the District in 1997 and subsequently issued bonds to finance a

seawall to protect their property. When the District was formed, City Council appointed five property owners from Casa De La Playa to the Board of the District.

Appointments to the Board are governed by the Uniform District Election Law (Cal. Elections Code § 10500 et seq.). Generally, vacancies on the Board are filled by appointment by the Board, or a call by the Board for an election. However, in the case of the District, all members of the Board have either passed away or moved away. Therefore, there is not a single member of the Board who can appoint other members, nor call for an election of Board members. Accordingly, state law requires appointments to the Board via City Council action. (Cal. Gov't Code § 1780(f)(1)).

The Board vacancies need to be filled for the District to conduct necessary business such as improvements to the seawall in order to protect private property, public safety, and welfare. Re-constituting the Board will benefit the residents in the area, and the Board will be able to assist with matters such as delinquent assessment payments by District residents.

The five residents to be appointed are:

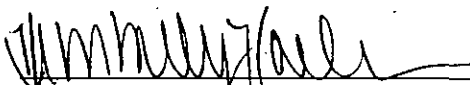
Douglas Fettel	Steven Teixeira	Thomas Bryan
4878 Pescadero Ave. #203	4878 Pescadero Ave. #404	4878 Pescadero Ave. #302
San Diego, CA 92107	San Diego, CA 92107	San Diego, CA 92107
Philip Golden Kincaid	Dr. James Ellis	Property Address
4878 Pescadero Ave. #102	Mailing Address	
San Diego, CA 92107	1301 South Grade Road	4878 Pescadero Ave. #206
	Alpine, CA 91901	San Diego, CA 92107

FISCAL CONSIDERATIONS: No fiscal impact.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: Casa De La Playa Geologic Hazard Abatement District (District) formed and five property owners were appointed as Directors of the District via Resolution R-289251 adopted on September 30, 1997; Resolution R-289332 adopted on October 28, 1997 granted consent for the formation of a special assessment district to finance the construction of a seawall in Ocean Beach.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Key stakeholders are property owners in Ocean Beach in the Casa De La Playa Geologic Hazard Abatement District.



 Kimberly Kaelin, City Attorney's Office
 Originating Department

000869

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPOINTING FIVE MEMBERS TO THE
BOARD OF THE CASA DE LA PLAYA GEOLOGIC
HAZARD ABATEMENT DISTRICT.

WHEREAS, pursuant to Resolution Number R-289251 adopted on September 30, 1997, the City Council formed the Casa De La Playa Geologic Hazard Abatement district [District] pursuant to Division 17 of the California Public Resources Code to specifically address coastal bluff erosion/retreat; and

WHEREAS, pursuant to Resolution Number R-289251, the City Council appointed five property owners within the District as directors of the District; and

WHEREAS, on October 28, 1997, pursuant to Resolution Number R-289332, City Council granted its consent to the formation of Assessment District No. 97-1 [Seawall Project] under the provisions of the "Municipal Improvement Act of 1913", which is division 12, commencing with section 10000 of the California Streets and Highways Code; and

WHEREAS, one member of the originally appointed Board of Directors passed away and the other members no longer own property within the District, therefore, there are no members of the Board of the Directors of the District; and

WHEREAS, the seawall constructed by the District is in need of improvements and maintenance in order to protect private property and the public safety and welfare, and the District may not act to make such improvements except by and through its Board of Directors; and

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WHEREAS, pursuant to section 26583 of the Public Resources Code, elections for board members of Geologic Hazard Abatement Districts are governed by California Uniform District Election law; and

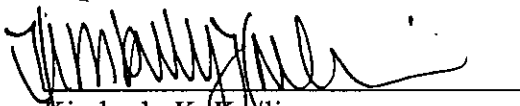
WHEREAS, under the applicable Uniform District Election Law (Cal. Elections Code § 10500 et seq.), because the District presently has no members of its Board of Directors, it is unable to initiate the process by which the County's Registrar of Voters may conduct an election for the five vacant seats on the District's Board of Directors; and

WHEREAS, pursuant to Elections Code section 1780(f)(1), if the vacancies are not filled via an election process or by an appointment of the Board itself, the City Council of the City in which a special district exists may appoint persons to fill vacancies on the District's Board of Directors; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, pursuant to Elections Code section 1780(f)(1), and Public Resources Code sections 26583 and 26567, that the following five property owners within the District are appointed and hereby confirmed as directors of the District for terms of four years: Douglas Fettel; Dr. James Ellis; Thomas Bryan; Philip Golden Kincaid; and Steven Teixeira,.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


Kimberly K. Kaelin
Deputy City Attorney

KKK:nda
10/15/08
Or.Dept: City Attorney
R-2009-479
MMS#6730

000871

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor